THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 4929 of 2000

DATED: 06.06.2007

Between:

Jabbu Venkata Reddy.

.. Petitioner.

And

The District Collector/Agent
to Government, East Godavari District,
Kakinada, and others.

.. Respondents.

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.4929 of 2000

ORDER:

In this writ petition, the petitioner questioned the proceedings in Ref:B.228/2000, dated 25.01.2000, issued by the second respondent-Revenue Divisional Officer, Rampachodavaram, addressing the third respondent-Mandal Revenue Officer to recover an amount of Rs.25,000/- from the petitioner and also to hand over the possession of vacant site to the fifth respondent, which is alleged to be in the possession of the petitioner, and, which the fifth respondent is claiming it to be her property.

Initially, the fifth respondent had filed a revision before the Mandal Revenue Officer, Rampachodavaram, stating that the petitioner had married her and also took money from her, but however, he deserted her and is not repaying the said money to her. Basing on the said representation, an urgent notice, dated 05.01.1998, was issued in Ref.No.C/41/97 for the petitioner's appearance before the Mandal Revenue Officer on 07.01.1998. Further, another notice was also issued to the petitioner in the month of April, 1998. But, subsequently, these impugned orders came to be issued by the Revenue Divisional Officer, Rampachodavaram, in which directions are issued to the Mandal Revenue Officer, Rampachodavaram, to recover the said amount from the petitioner and also to take steps for handing over of the possession of the vacant site by the petitioner,

which is alleged to be in his possession, and which is claimed by the fifth respondent to be her property.

In this writ petition, it is the case of the petitioner that even assuming that any amount is due from him, it is open for the fifth respondent to file a suit for recovery of money under the agency rules, but however, Revenue Divisional Officer, Rampachodavaram, has no jurisdiction to issue any directions to the Mandal Revenue Officer to recover the said amount from the petitioner.

In the counter affidavit filed by the Mandal Revenue Officer, Rampachodavaram, it is stated that subsequent to the filing of the writ petition, the fifth respondent also filed a suit in O.S.No.26 of 2000 with regard to her claim for possession of the vacant site and obtained injunction orders.

With regard to the fifth respondent's claim for recovery of money or for handing over the possession of vacant site from the petitioner, it is always open to the fifth respondent to file a suit before the Agency Court under the agency rules, but, however, on a mere representation, no order could have been passed by the Revenue Divisional Officer directing the Mandal Revenue Officer to recover the said amount and also for taking steps to handover the possession of the vacant site as claimed by the fifth respondent. On a perusal of the impugned proceedings also, there is no indication of issuing any prior notice or of giving an opportunity to the petitioner before issuing directions by the Revenue Divisional Officer to the Mandal Revenue Officer. Inasmuch as the impugned order is without any jurisdiction, it is liable to be set aside.

In view of the above circumstances, the impugned proceedings in Ref.B.228/2000, dated 25.01.2000, issued by the Revenue Divisional Officer, Rampachodavaram, directing the Mandal Revenue Officer to recover the amount from the petitioner, as claimed by the fifth respondent, and also of handing over the possession of the vacant site by the petitioner, which is claimed by the fifth respondent as that of her property, is hereby set aside. However, either for recovery of money or for handing over the possession of vacant site by the petitioner, it is open for the fifth respondent to take steps in accordance with law to recover the same either under Agency rules or otherwise.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

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(R.SUBHASH REDDY,J)

Dt.06.06.2007
v v

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